

# HOW TO TAKE TITLE IN CALIFORNIA

## COMMON WAYS OF HOLDING TITLE CONCURRENT CO-OWNERSHIP INTERESTS

	TENANCY IN COMMON	JOINT TENANCY	COMMUNITY PROPERTY	TENANCY IN PARTNERSHIP	COMMUNITY PROPERTY W/ RIGHT OF SURVIVORSHIP
SUCCESSOR'S STATUS	Devises or heirs become tenants in common.	If more than one joint tenant remains, all continue to hold title to decedent's share as joint tenants.	Upon death of one spouse/domestic partner who leaves a will, devisees or heirs second to the decedent interest, otherwise, survivor's spouse/domestic partner continues to own entire title, including that of the decedent.	Heir or devisees have rights in partnership interest but not in specific partnership property.	Upon death of one spouse/ domestic partner, survivor continues in ownership of entire property including share of the deceased spouse/domestic partner. Surviving spouse/ domestic partner continues to own entire title, including former title interest of deceased spouse/domestic partner.
CREDITOR'S STATUS	Co-owner's interest may be sold on execution sale to satisfy his creditor. Purchaser becomes a tenant in common with remaining co-tenants. Termination may occur as a result of involuntary sale (e.g., a foreclosure sale under a mortgage or deed of trust).	Mortgage or deed of trust executed by one joint tenant or a judgment lien against interest of one joint tenant, does not sever joint tenancy or affect right of survivorship unless property is sold by foreclosure or execution sale prior to death of the party who incurred the lien.	Community property is generally liable for a debt incurred by either spouse/ domestic partner before or during marriage, regardless of which spouse/domestic partner has management and control of the property or which spouse/domestic partner is party to the debt. Earnings of married person during marriage or of a domestic partner during the term of the partnership are not liable for pre-marital debt of other spouse/ domestic partner if earnings from which debt is paid remains uncommingled with other community property and held in account where other spouse/domestic partner does not have access; community property not liable for debts incurred subsequent to separation. Earnings of a spouse/ domestic partner are not liable for the debts of the other spouse/domestic partner contracted before the marriage.	Partnership interest is treated as personal property and may be sold to pay debts. If the interests of creditors will not be adversely affected, in lieu of sale of the property, the partners may be awarded their respective interests in the property or it may be partitioned. Creditors receive priority in payment of partnership liabilities, a partner's right in specific partnership property is not subject to attachment or execution, except on a claim against the partnership.	Community property is generally liable for a debt incurred by either spouse/ domestic partner before or during marriage, regardless of which spouse/domestic partner has management and control of the property or which spouse/ domestic partner is party to the debt. Earnings of married person during marriage or of a domestic partner during the term of the partnership are not liable for pre-marital debt of other spouse/domestic partner if earnings from which debt is paid remains uncommingled with other community property and held in account where other spouse/domestic partner does not have access; community property not liable for debts incurred subsequent to separation. Earnings of a spouse/ domestic partner are not liable for the debts of the other spouse/domestic partner contracted before the marriage.
PRESUMPTION	Favored in doubtful cases except husband and wife case. Reference to husband and wife in the deed of sale, without mention of any other form of ownership, creates statutory presumption that the property is community in nature.	Deed must expressly vest title to grantees as joint tenants.	Conveyance to a husband and wife or domestic partners raises presumption of Community Property.	Arises only by virtue of partnership status on property placed in partnership. Partner's interest cannot be seized or sold separately by his personal creditor, but his share of profits, may be obtained by a personal creditor. Entire property may be sold on execution sale to satisfy partnership creditor.	Deed must expressly vest title in the name of the spouses/ domestic partners as "husband and wife or domestic partners as community property with right of survivorship" and deed may be signed by the grantees.





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	TENANCY IN COMMON	JOINT TENANCY	COMMUNITY PROPERTY	TENANCY IN PARTNERSHIP	COMMUNITY PROPERTY W/ RIGHT OF SURVIVORSHIP
<b>PARTIES</b>	Any number of persons (can be husband and wife or domestic partners, but see "Presumption" limitations below).	Any number of persons (can be husband and wife or domestic partners).	Only husband and wife or domestic partners.	Only partners (any numbers).	Only husband and wife or domestic partners.
<b>DIVISION</b>	Ownership can be divided into any number of interests equal or unequal.	Ownership interest must be equal.	Ownership and managerial interests are equal, except control of business is solely with managing spouse or domestic partners.	Ownership interest is in relation to interest in partnership.	Ownership and managerial interest are equal, except control of business is solely with managing spouse/domestic partners.
<b>TITLE</b>	Each co-owner has a separate legal title to his undivided interest.	There is only one title to the whole property. (Joint ownership in undivided equal shares.)	Title is in the "community".	Title is in the "partnership".	Title is in the "community."
<b>POSSESSION</b>	Equal right of possession (only unity of interest required).	Equal right of possession. A joint tenant can be in exclusive possession of the property or he can lease his interest to a third party without affecting the nature of the joint tenancy. Such lease will terminate upon the death of the lessor joint tenant, with the surviving joint tenants taking the interest therein.	Both co-owners have equal management and control with similar absolute power of disposition.	Equal right of possession but only for partnership purposes, absent consent of other partners to the contrary. The partnership property belongs to the firm and not the individual partners.	Both co-owners have equal management and control with similar absolute power of disposition.
<b>CONVEYANCE</b>	Each co-owner's interest may be conveyed separately by its owner. Tenancy in common dissolved by conveyance of co-tenant interest to another. New tenancy in common is created between grantees and remaining co-tenant's.	Conveyance by one co-owner without the others breaks his joint tenancy.	A spouse or domestic partner may not make a gift of or dispose of community property without valuable consideration and written consent of the other spouse or domestic partner; "Necessaries" (furniture, furnishings, or fittings of the home, or the clothing or wearing apparel of the other spouse or domestic partner or minor children) may not be disposed of without the written consent of the other spouse or domestic partner.	Any authorized partner may convey whole partnership property. No partner may sell or assign his interest in specific partnership property without the consent of and in conjunction with all co-partners.	A spouse/domestic partner may not make a gift of or dispose of community personal property without valuable consideration and written consent of the other spouse/domestic partner; "Necessaries" (furniture, furnishings, or fittings of the home, or the clothing or wearing apparel of the other spouse/domestic partner or minor children) may not be disposed of without the written consent of the other spouse/domestic partner.
<b>PURCHASER'S STATUS</b>	Purchaser will become a tenant in common with the other co-owners in the property.	Purchaser will become a tenant in common with the other co-owners in the property.	Purchaser can only acquire whole title of community, cannot acquire a part of it.	Purchaser can only acquire the whole title.	Purchaser can only acquire whole title of community, cannot acquire a part of it.
<b>DEATH</b>	On co-owner's death, his interest passes by will to his devisees or his heirs by intestate succession. No survivorship right.	Upon the death of joint tenant, title to the property passes to the surviving joint tenants by operation of law, to the exclusions of the heirs and creditors of the deceased joint tenant. Ownership cannot be disposed by testamentary disposition, and it does not pass to the heirs of the decedent by interstate succession.	On co-owner's death, 1/2 belongs to survivor as separate property, 1/2 goes by will to decedent's devisees or by succession to survivor.	On partner's death, his partnership interest passes to the surviving partner pending liquidation of the partnership. Share of deceased partner then goes to his estate.	Upon the death of one spouse/domestic partner, title to the property passes to the surviving spouse/domestic partner by operation of law, to the exclusion of the heirs and creditors of the deceased spouse/domestic partner. The survivor holds title to the property as his sole and separate property. Community property with right of survivorship cannot be disposed by testamentary disposition, and it does not pass to the heirs of the decedent by interstate succession.